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JOHN WELLS KING
ADMITTED IN VA. AND D.C.

July 15, 1993

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JUL 15 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

William F. Caton, Secretary
Federal Communications Commission
Washington, D.C. 20554

OUR FILE NO.
1051-101-63

RE: MM Docket No. 93-91
RM Nos. 8197, 8279
Berlin *et al.*, Wisconsin

SUBJECT: Reply Comments of Markesan Broadcasting Company

Dear Mr. Caton:

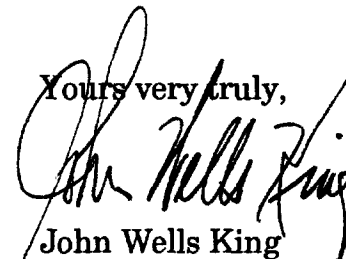
On behalf of Mark J. Kastein d/b/a Markesan Broadcasting Company, I transmit herewith the original and four copies of its Reply Comments in the above-referenced proceeding.

These are filed in response to the Commission's June 30, 1993, Public Notice, Report No. 1949, accepting the proposal in RM-8279.

Kindly update your records to reflect that the undersigned has been retained by Markesan Broadcasting Company.

Any questions may be communicated directly to this office.

Yours very truly,


John Wells King

JWK/jb

cc: Michael C. Ruger, Chief
Ms. Kathleen Scheuerle
Richard J. Hayes, Jr., Esquire
Jerold L. Jacobs, Esquire
Julie A. Blaser

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Before The



Kastein's counterproposal. It issued Public Notice of RM-8279 on June 30, 1993, *Petitions for Rulemaking Filed*, Report No. 1949, inviting comments within 15 days. These reply comments are timely filed in response.

II. MUTUAL EXCLUSIVITY CONSIDERATIONS

Kastein's proposal to allot Channel 284A to Markesan is mutually exclusive with the element of the De Forest proposal to substitute Channel 284A for Channel 272A at Berlin. Accordingly, and since there does not appear to be a channel available both to De Forest and to Markesan, the Commission must be guided by its standard comparative criteria to determine which community should be awarded an allotment.²

III. MARKESAN MERITS A FIRST FM ALLOTMENT

A. FIRST AND SECOND AURAL SERVICES WOULD BE PROVIDED

The Commission's allotment priorities assign the greatest weight to the provision of a first and second aural service. A Markesan allotment would provide both. As more fully discussed in the attached statement of Lyle Robert Evans, Kastein's broadcast consultant, which is incorporated herein by reference, a first aural service would be provided to approximately 2,000 persons in some 72 square miles, and a second

² The criteria derive from the priorities published in *Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88 (1982). These are: (1) first fulltime aural service; (2) second fulltime aural service; (3) first local service; and (4) other public interest matters.

aural service would be provided to approximately 3,300 persons. This element of the Markesan proposal alone warrants a determinative preference.

B. MARKESAN IS WOEFULLY UNDERSERVED

In addition to the decisional fact of first and second aural service, the number of reception services to the community is relevant. Here also, according to Mr. Evans, a Channel 284A allotment at Markesan qualifies for significant consideration. There is only one qualified reception service at Markesan, from Station WPKR(FM), Omro. Station WOLX-FM, Baraboo, provides a 0.5 mV/m signal to Markesan, but the signal is not protected from interference, and thus does not qualify as a reception service. Therefore, the community presently receives only one reception service. It is remarkable in this day and age of proliferating FM allotments that a community as vital and healthy as Markesan is presently served by so few aural services. Such woeful underservice emphatically dictates the proposed allotment.

C. MARKESAN IS A THRIVING COMMUNITY

Even if the foregoing considerations were not decisional, Markesan is to be preferred to De Forest under an analysis of the communities' Section 307(b) attributes.

The attached Declaration of the petitioner, Mark J. Kastein, supplies ample evidence of Markesan's vitality as a community for Section 307(b) purposes. Kastein speaks from personal experience since

his mother was raised there and his grandmother lived there until her death in 1992.

Kastein shows that the characteristics of the Markesan community make it an ideal candidate for a new FM station. Markesan is an agri-business based community with a healthy mix of industry, retail services, tourism, and recreation.

Markesan is an incorporated city that was once the third richest city in the United States, according to the Markesan Chamber of Commerce. The 1990 census of Markesan is 1,519. Its primary retail establishments include three major financial institutions, supermarket, pharmacy, hardware and auto parts outlet, motel, supper clubs and restaurants, three medical facilities, and two senior citizens' facilities. Markesan also offers an array of professional services for its residents.

Long-established industries include Precision Metals, Inc.; Del Monte; Friday Canning Corporation; Harttert Screw; Grand River Co-op, and others. Markesan is active in pursuing industrial and retail development through the Markesan Municipal Development Corporation.

The Markesan Public School system includes a grade school and middle school, and a 350-student high school. Athletics and other

recreational activities for boys and girls are sponsored as an

Markesan has a mayoral/aldermanic form of government and provides safety and welfare services through its own police and fire department. Additional city facilities include a public library and senior citizens' center.

IV. DE FOREST DOES NOT WARRANT AN ALLOTMENT

As a community in Dane County, De Forest is in the shadow of and under the influence of the much larger nearby city of Madison (pop. 194,491), the state capital. Indeed Dane County (pop. 376,985) forms the Madison Metropolitan Statistical Area (MSA), of which De Forest is a part.³ The cities lie some 13 miles apart between reference coordinates, and there are no intervening agrarian townships. Markesan, on the other hand, is more isolated in rural Green Lake County, and its nearest larger community, Waupun, some ten miles distant, is not an SMA like Madison. The nearest SMA is Fond du Lac, nearly 29 miles away.

Madison, Dane County, and De Forest are well served by existing aural services. Eleven FM stations and six AM stations (3 fulltime) provide primary service to De Forest. Another three FM stations provide interference-free service. The proximity of De Forest to Madison suggests that a De Forest allotment would become simply another Madison radio station.

V. A MARKESAN ALLOTMENT IS TO BE PREFERRED

Under the FM allotment priorities⁴ the Markesan proposal would provide a first and second fulltime aural service (Priorities 1 and

³ See the attached excerpts from OMB Bulletin No. 93-17, June 30, 1993.

⁴ See Note 2. *supra*.

2). The De Forest proposal would not. Both would provide a first local service (Priority 3). Accordingly, an allotment to Markesan is clearly preferable, and would better fulfill the mandate of Section 307(b) and the Commission's allotment priorities.

Even if the attributes of the Markesan proposal were not deemed decisional, an analysis of which community should be awarded the channel under other public interest matters (Priority 4) favors Markesan. In this connection, such factors as location, population, and

~~proximity to services are taken into account.~~

veritable plethora of service from 14 FM and 6 AM stations. Markesan thus has a greater need under this criterion, and is to be preferred.⁷

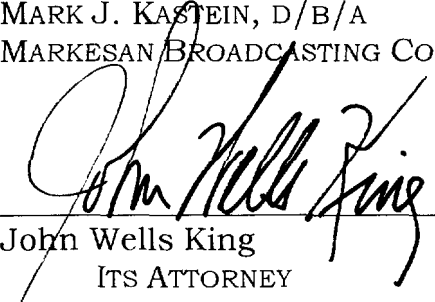
C. MARKESAN IS PREFERRED ON THE BASIS OF POPULATION

284A to Markesan, Kastein will immediately file an application for construction permit seeking to build and operate a new FM station to serve the community.

Respectfully submitted,

MARK J. KASTEIN, D/B/A
MARKESAN BROADCASTING COMPANY

By


John Wells King
ITS ATTORNEY

HALEY, BADER & POTTS
Suite 900
4350 North Fairfax Drive
Arlington, VA 22203-1633
703/841-0606

July 15, 1993

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

ENGINEERING STATEMENT

IN THE MATTER OF:)
AMENDMENT OF SECTION 73.202(B),) MM DOC. 93-91
TABLE OF ALLOTMENTS,) RM-8197
FM BROADCAST STATIONS,) RM-8279
(BERLIN, DE FOREST, WAUTOMA AND)
MARKESAN, WISCONSIN)
TO: THE COMMISSION

PREPARED FOR:
MARKESAN BROADCASTING COMPANY

JULY 14'TH, 1993

PREPARED BY:
LYLE ROBERT EVANS
BROADCAST CONSULTANT
1391 NORTH ROAD
GREEN BAY, WISCONSIN 54313
(414) 494-2626

STATE OF WISCONSIN)

COUNTY OF BROWN)

CITY OF GREEN BAY)

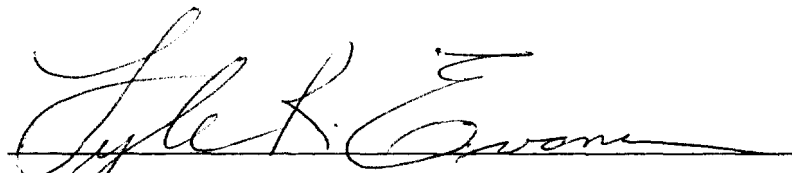
LYLE ROBERT EVANS, BEING FIRST DULY SWORN STATES:

THAT HE IS A ELECTRONIC COMMUNICATIONS CONSULTANT WITH
OFFICES AT 1391 NORTH ROAD, GREEN BAY, WISCONSIN, 54313.

THAT HIS QUALIFICATIONS ARE A MATTER OF RECORD BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION IN WASHINGTON, D.C.

THAT HE HAS PREPARED NUMEROUS AM, FM, MICROWAVE RADIO,
TELEVISION AND TRANSLATOR APPLICATIONS WHICH HAVE BEEN
PROCESSED TO GRANT BY THE FEDERAL COMMUNICATIONS COMMISSION.

THAT ALL CALCULATIONS AND/OR MEASUREMENTS AND EXHIBITS
IN THE ACCOMPANYING REPORT WERE MADE BY HIM PERSONALLY OR
UNDER HIS DIRECTION, AND THAT ALL FACTS CONTAINED HEREIN
ARE TRUE OF HIS PERSONAL KNOWLEDGE OR BELIEF, AND ON SUCH
STATEMENTS MADE ON BELIEF, THEY ARE BELIEVED TO BE TRUE.



AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS 14TH DAY OF JULY,
1993.



NOTARY PUBLIC

DATE OF COMMISSION EXPIRATION: 6-22-97

WASHINGTON, D.C. 20554

)

)

) MM DOCKET NO: 93-91

) RM-8197

) RM-8279

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ENGINEERING STATEMENT

This Engineering Statement concerns the above

Markesan Broadcasting Company ("MBC"), retained

ces of Lyle Robert Evans, Technical Consultant, to

Engineering studies and prepare necessary Sta

ing Company, to amend Section 73.202(b) of the

The Commission by NOTICE OF PROPOSED RULE MAKING,

Adopted: March 25, 1993; Released: April 28, 1993 stated:

	Channel No.	
City	Present	Proposed
Berlin, Wisconsin	272A	284A
De Forest, Wisconsin	--	226A
Wautoma, Wisconsin	226A	272A

Mark J. Kastein d/b/a Markesan Broadcasting Company ("MBC") advanced the following COUNTERPROPOSAL in MM Docket Number: 93-91; Rule Making 8197, for the communities listed below.

	Channel No.	
City	Present	Proposed
Berlin, Wisconsin	272A	272A
De Forest, Wisconsin	None	None
Wautoma, Wisconsin	226A	226A
Markesan, Wisconsin	None	284A

FCC Public Notice Report Number 1949, of June 30, 1993, announced the MBC Counterproposal acceptable, assigning it Rule Making Number 8279.

A technical analysis of the mutually exclusive proposals of De Forest Broadcasting Company and Markesan Broadcasting Company was conducted to determine service benefits of the proposals

De Forest, Wisconsin, is totally encompassed by the Principal Community Contour (70.0 dBu or 3.16 mV/m) of

eleven (11) FM Broadcast Stations. Attachment E-A to this Statement, a listing of said stations in order of frequency, sets forth Call Sign, Community of License, and pertinent technical data.)

De Forest, Wisconsin, receives protected ("Interference Free") signals from three (3) additional area FM Broadcast Stations. Attachment E-B, a listing of said stations in order of frequency, sets forth Call Sign, Community of License and pertinent technical data.

Six (6) Standard Broadcast (A.M.) radio stations provide De Forest with 5.0 mVm, Principal Community coverage, during daylight hours. Three (3) of these stations provide the village with protected ("Interference Free") nighttime service. Attachment E-C, a listing of said stations by order of frequency, sets forth Call Sign, Community of License and pertinent technical data.

De Forest is located within the Madison, Wisconsin, Metropolitan Statistical Area (M.S.A.).

The distance and bearing from the Madison, Wisconsin, Geographic Reference Coordinates; 43°-04'-23" M.L., 89°-22'-55" W.L., to the Village of De Forest Reference Coordinates; 43°-15'-06" N.L., 89°-20'-24" W.L., was calculated at 12.51 miles at 9.8 degrees True. This distance is an urbanized area with no intervening agrarian townships.

The 1993 updated Dane County, Wisconsin, population, supplied by the Dane County Clerk is 376,989 persons.

Dane County constitutes the "Madison" M.S.A. The City of Madison, Wisconsin, 1993 updated population, also supplied by the Dane County Clerk is 194,591 persons.

The De Forest proposal shall provide no person a "first" 70.0 dBu (3.16 mV/m) Principal Community service; only a fifteenth 1.0 mV/m service to residents of the Madison, Wisconsin, M.S.A.

Markesan, Wisconsin, receives one (1) 70 dBu or 3.16 mV/m, Principal Community signal. That from Station WPKR(FM), Omro, Wisconsin. (See Attachment E-D, herein contained, for technical data.)

The distance and bearing from the City of Markesan, Wisconsin, Geographic Reference Coordinates; 43°-42'-24" M.L., 89°-58'-18" W.L., to the Omro, Wisconsin, Reference Coordinates; 43°-15'-06" N.L., 89°-20'-24" W.L., was calculated to be 36.04 miles at bearing of 29.4 degrees True.

Markesan, Wisconsin, is not located within or near any Metropolitan Statistical Area. The nearest M.S.A. is "rond du lac" (wisconsin), 28.5 miles distant. The intervening land is entirely agrarian in use.

Markesan does receive a 0.5 mV/m signal from Class

B FM Broadcast Station WOLX(FM) Baraboo, Wisconsin. This signal is NOT PROTECTED from interference. Station WOLX(FM) operates with "Grandfathered" technical facilities, far in excess of those authorized for Class B FM Broadcast Stations set forth in 47 Code of Federal Regulations, §73.211. (See Attachment E-D, herein contained.)

Station WOLX(FM) is only entitled to protection for Class B Stations set forth in 47 C.F.R., §73.207, §73.211, and §73.215. The Station WOLX(FM) calculated, protected ("Interference-Free") contour falls 12 kilometers short of the reference coordinates of the City of Markesan.

In reality, residents of Markesan receive only one protected ("Interference Free") signal, that of Station WPKR(FM), Omro, Wisconsin

A maximum facility Class A operation on Channel 284 from illustrative site coordinates: 43°-43'-53" N.L., 89°-01'-24" W.L., shall provide approximately 2,000 persons residing in a 72.3 square mile area Southwest-West of Markesan a "first" Principal Community (70.0 dBu or 3.16 mV/m) FM Broadcast Station service. In addition, 3,370 persons residing West-Northwest of Markesan shall receive a "second" protected ("Interference Free") service.

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The following conclusions can be obtained from this Engineering Statement.

1. The Markesan, Wisconsin, Channel 284A proposal shall provide residents of Markesan and vicinity a first full time broadcast service.
2. More than 2,000 Markesan area residents shall receive a first 70 dBu (3.16 mV/m) Principal Community service.
3. More than 3,370 Markesan area residents shall receive a second protected, ("Interference-Free") service.
4. The De Forest, Wisconsin, Channel 226A proposal shall provide no persons a first 70.0 dBu (3.16 mV/m) Principal Community Service. It shall provide most residents within a proposed 3.16 mV/m contour a twelfth Principal Community service.
5. The proposed allotment at De Forest, Wisconsin provides residents within a proposed 1.0 mV/m protected ("Interference-Free") contour their sixteenth such service.
6. Markesan is not within or near any Metropolitan Statistical Area (M.S.A.).
7. De Forest is within the Madison, Wisconsin, Metropolitan Statistical Area (M.S.A.).
8. The City of Markesan is not located within an urbanized area.
9. The Village of De Forest, Wisconsin is within an urbanized area.

REPLY COMMENTS IN MM DOCKET NUMBER: 93-91; RM 8279
 MARKESAN, WISCONSIN
 CHANNEL 284 (104.7 MHZ.); Class A
 MARKESAN BROADCASTING COMPANY

ATTACHMENT E-A

CALL STATUS	CITY STATE	FCC FILE	CHAN. ZONE	ERP(KW) HAAT(M)	LATITUDE LONGITUDE
WERN LIC	MADISON WI	BRED-890721UL	*204B 88.7	25.00 302.00	43-03-18 89-28-42
WMAD-FM LIC	SUN PRAIRIE WI	BALH-920925HQ	221A 92.1	1.75 122.00	43-10-25 89-15-26
WJJO LIC	WATERTOWN WI	BLH-890906KC	231B 94.1	50.00 150.00	43-03-32 88-01-54
WOLX-FM LIC	BARABOO WI	BRH-890731VW	235B 94.9	37.00 396.00	43-25-40 89-39-14
WMLI LIC	SAUK CITY WI	BLH-900911KC	242B1 96.3	5.10 205.00	43-12-37 89-35-57
WMGN LIC	MADISON WI	BPH-830502AE	251B 98.1	38.00 176.00	45-11-58 89-22-47
WYKY LIC	COLUMBUS WI	BLH-900814KE	263A 100.5	3.00 100.00	43-20-04 89-09-57
WIBA LIC	MADISON WI	BLH-881222KC	268B 101.5	11.80 310.00	43-03-22 89-32-07
WNWC LIC	MADISON MI	BRH-890725UO	273B 102.5	50.00 150.00	43-02-07 89-30-25
WZEE LIC	MADISON MI	BLH-850227KS	281B 104.1	9.40 341.00	43-03-09 89-28-42
WYZM LIC	WAUNAKEE WI	BLH-920427KD	286A 105.1	6.00 74.00	43-13-20 89-18-01

ATTACHMENT A; CONCLUDED

REPLY COMMENTS IN MM DOCKET NUMBER: 93-91: RM 8279

REPLY COMMENTS IN MM DOCKET NUMBER: 93-91; RM 8279
MARKESAN, WISCONSIN
CHANNEL 284 (104.7 MHz.); Class A
MARKESAN BROADCASTING COMPANY

ATTACHMENT E-C

<u>FREQUENCY</u> <u>(KHZ.)</u>	<u>CALL</u> <u>FILE</u>	<u>LOCATION</u> <u>(CITY AND STATE)</u>	<u>POWER</u> <u>(KW)</u>
970 kHz	WHA	Madison, WI	5.00 Non-D, Days Only
1070 khz	WTSO	Madison, WI	10.00 Day DA-2 5.00 Nite
1190 kHz	WMAD	Sun Prairie, WI	1.00 Non-D, Days Only
1310 kHz	WIBA	Madison, WI	5.00 U, DA-2
1480 kHz	WTDY	Madison, WI	5.00 U, DA-2
1550 kHz	WHIT	Middleton, WI	5.00 DA, Days Only

ATTACHMENT E-C; CONCLUDED

REPLY COMMENTS IN MM DOCKET NUMBER: 93-91; RM 8279
MARKEBAN, WISCONSIN
CHANNEL 284 (104.7 MHZ.); Class A

DECLARATION OF MARK J. KASTEIN

The undersigned hereby declares and states as follows:

1. My name is Mark J. Kastein. I am a resident of Brandon, Wisconsin. I am a part owner and General Manager of Station WMRH, Waupun, Wisconsin. I have been involved in broadcasting for the past fifteen years. I am the proponent of the allotment of Channel 284A to Markesan, Wisconsin. Brandon, Waupun, and Markesan are within about ten miles of each other in southeast Wisconsin.
2. I am very familiar with the community of Markesan. My mother was raised there. My grandmother lived there until her death in 1992. My family ties have taken me to Markesan many times.
3. The attributes of the community make it an ideal candidate for a new FM station. Markesan is an agri-business based community with a healthy mix of industry, retail services, tourism, and recreation.
4. Markesan is an incorporated city that was once the third richest city in the United States, according to the Markesan Chamber of Commerce. Its primary retail establishments include three major financial institutions, supermarket, pharmacy, hardware and auto parts outlet, motel, supper clubs and restaurants, three medical facilities, and two senior citizens' facilities. Markesan also offers an array of professional services for its residents.

5. Long-established industries include Precision Metals, Inc., Del Monte, Friday Canning Corporation, Harttert Screw, Grand River Co-op, and others. Markesan is active in pursuing industrial and retail development through the Markesan Municipal Development Corporation.
6. The Markesan Public School system includes a grade school and middle school, and a 350-student high school. Athletics and other extra-curricular activities for boys and girls are sponsored as an essential part of the Markesan educational program.
7. Markesan is an attractive area for fishing and hunting enthusiasts, featuring one of Wisconsin's best fishing lakes, little Green lake. It also offers some of the best hunting in the state, along with parks, camping, and plenty of scenic countryside.
8. Markesan has a mayoral/aldermanic form of government and provides safety and welfare services through its own police and fire department. Additional city facilities include a public library and senior citizens' center.
9. If the commission allots Channel 284A to Markesan, I will immediately file an application for construction permit seeking to build and operate a new FM station to serve the community.

I have read the foregoing and declare under penalty of perjury of the laws of the United States that the statements contained herein are true and correct of my personal knowledge.

Dated: July 14, 1993

A handwritten signature in dark ink, appearing to read "Mark J. Koster", is written over a horizontal line.



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

June 30, 1993

OMB BULLETIN NO. 93-17

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Revised Statistical Definitions for
Metropolitan Areas (MAS)

1. **Purpose:** This Bulletin establishes revised definitions for the Nation's MAS. These new definitions, contained in the attached four lists, take effect on June 30, 1993. They reflect the MA standards published on March 30, 1990, and the demographic data drawn from the 1990 Decennial Census. This Bulletin also provides guidance on the use of the definitions of MAS.

This Bulletin establishes 14 new Primary Metropolitan Statistical Areas (PMSAs): Fitchburg-Leominster, MA, Lawrence, MA-NH, Lowell, MA-NH, Manchester, NH, New Bedford, MA, Portsmouth-Rochester, NH-ME, and Worcester, MA-CT, in the Boston-Worcester-Lawrence, MA-NH-ME-CT Consolidated Metropolitan Statistical Area (CMSA) and Bergen-Passaic, NJ, Jersey City, NJ, Middlesex-Somerset-Hunterdon, NJ, Monmouth-Ocean, NJ, Nassau-Suffolk, NY, Newark, NJ, and Waterbury, CT, in the New York-Northern New Jersey-Long Island, NY-NJ-CT-PA CMSA.

2. **Background:** Pursuant to 44 U.S.C. 3504(d)(3) and 31 U.S.C. 1104(d) and E.O. No. 10,253 (June 11, 1951), the Office of Management and Budget (OMB) defines MAS for use in Federal statistical activities. OMB updates these definitions each June, adding new areas that qualify as MAS and cities that qualify as central cities for MAS.
3. **Metropolitan Areas:** This Bulletin gives the definitions of all MAS in the United States and Puerto Rico based on the standards published on March 30, 1990, in the Federal Register (55 FR 12154-12160) and the 1990 Decennial Census data. A total of 253 Metropolitan Statistical Areas (MSAs) are being recognized. There will be 19 CMSAs, consisting of 76 PMSAs. List I provides titles and definitions of all MSAs; List II presents similar information for CMSAs and PMSAs. List III identifies the MSAs, PMSAs, and CMSAs of each State. List IV provides titles and definitions for the New England County Metropolitan Areas (NECMAs). MSAs, PMSAs, and NECMAs are categorized by their 1990 population size, as follows:

Level A -- Areas of 1 million or more
Level B -- Areas of 250,000 to 999,999
Level C -- Areas of 100,000 to 249,999
Level D -- Areas of less than 100,000

4. Use of Metropolitan Area Definitions: All agencies that conduct statistical activities to collect and publish data for MAS should use the most recent definitions of MAS established by OMB.